



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2342

DATE SCANNED 8/8/11

SCANNER NO. 2

SCAN OPERATOR ESS

11092661198



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 10, 2011

MEMORANDUM

TO: The Commission

THROUGH: Alec Paimer
Acting Staff Director

FROM: Patricia Carmona *PC*
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

BY: Jodi Winship/Sari Pickerall *JP*
Compliance Branch

SUBJECT: Withdrawal and Resubmission of Reason To Believe Recommendation -
2010 12 Day Pre-General Report (Unauthorized Quarterly Filers) for the
Administrative Fine Program

We are withdrawing the document circulated to the Commission on March 9, 2011 in order to remove a monthly filing committee which was included on the list in error. The committee was previously included on the Reason to Believe Recommendation for the 2010 12 Day Pre-General Report (Unauthorized Monthly Filers) which was approved by the Commission on February 2, 2011.

Attached is a list of political committees and their treasurers who failed to file or timely file the 2010 12 Day Pre-General Report in accordance with 2 U.S.C. § 434(a). The list is comprised of unauthorized quarterly filers that made General Election contributions or expenditures from October 1, 2010 through October 13, 2010, and failed to file or timely file the 2010 12 Day Pre-General Report.

The committees appearing on the 2010 12 Day Pre-General Report list failed to file the report prior to four (4) days before the General Election (considered a non-filed report). In accordance with 11 C.F.R. § 111.43, these committees should be assessed the civil money penalties indicated in the attachments.

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As noted above, the 2010 12 Day Pre-General Report circulation list includes unauthorized quarterly filers that made General Election contributions or expenditures from October 1, 2010 through October 13, 2010, but failed to file or timely file the 2010 12 Day Pre-General Election report. In order to accurately identify these committees for administrative fine purposes, the Reports Analysis Division (RAD) used the following procedures and criteria:

- Every 12 Day Pre-General Report (12G) submitted by an unauthorized quarterly filer was reviewed to ensure that it disclosed General Election contributions or expenditures made during the coverage dates of the report. Any report meeting this definition that was filed late is included in the list. Any report not disclosing general election contributions or expenditures during this period is not included in the list, as it is not a required filing.
- Every 30 Day Post-General Report (30G) submitted by an unauthorized quarterly filer that covered the period from October 1, 2010 through November 22, 2010 (53 days) was reviewed for activity which would have required the filing of a 12G. If our research indicated that a 12G was required, we utilized a three-step method to arrive at the activity on which to base the 12G fine amount. First, we took the sum of all itemized receipts and disbursements that should have been disclosed on a 12G. Second, if the committee had any unitemized activity, a per diem level of this activity was calculated by multiplying the total amount of unitemized activity on the report by 25% (13 days (12G Filing Period)/53 days (30G Filing Period)). Third, we took the sum of the amounts calculated in steps one and two to arrive at the level of activity assigned to the 12G.

Recommendation

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Reports violated 2 U.S.C. § 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Reports.
2. Send the appropriate letters.

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Federal Election Commission

Reason to Believe Circulation Report

2010 PRE-GENERAL Election Sensitive 10/21/2010 UNAUTH_Q

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2310	C00142315	BOYD GAMING POLITICAL ACTION COMMITTEE		RICK DARNOLD	\$225,302	0	12/3/2010	Not Filed	\$2,700	\$550

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AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
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AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2342	C00426669	WESTERN ENERGY ALLIANCE PAC		KATHLEEN M. SGAMMA	\$138,702	0	12/3/2010	Not Filed	\$3,346	\$550

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Withdrawal and Resubmission of Reason)
To Believe Recommendation - 2010 12 Day)
Pre-General Report (Unauthorized)
Quarterly Filers) for the Administrative Fine)
Program:)

BOYD GAMING POLITICAL ACTION) AF# 2310
COMMITTEE, and DARNOLD, RICK as)
treasurer;)

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WESTERN ENERGY ALLIANCE PAC,) AF# 2342
and SGAMMA, KATHLEEN M as)
treasurer;)

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on March 11, 2011 the Commission took the following actions on the Withdrawal and Resubmission of Reason To Believe Recommendation - 2010 12 Day Pre-General Report (Unauthorized Quarterly Filers) for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated March 10, 2011, on the following committees:

11092661200

AF#2310 Decided by a vote of 6-0 to: (1) find reason to believe that BOYD GAMING POLITICAL ACTION COMMITTEE, and DARNOLD, RICK as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter.

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Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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11092661203

11092661204

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11092661205

11092661206

AF#2342 Decided by a vote of 6-0 to: (1) find reason to believe that WESTERN ENERGY ALLIANCE PAC, and SGAMMA, KATHLEEN M as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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Attest:

March 14, 2011
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission

11092661207



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 14, 2011

Kathleen M. Sgamma, in official capacity as Treasurer
Western Energy Alliance PAC
410 17th Street, Suite 700
Denver, CO 80202

C00426569
AF#: 2342

Dear Ms. Sgamma:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 12 Day Pre-General Report of Receipts and Disbursements in a calendar year during which there is a regularly scheduled election. This report is required if your committee makes a contribution to or expenditure on behalf of a candidate in the general election. This report, covering the period through October 13, 2010, shall be filed no later than October 21, 2010. 2 U.S.C. § 434(a). Because records at the Federal Election Commission ("FEC") indicate that this report was not filed prior to four (4) days before the General Election held on November 2, 2010, it is considered not filed for the purpose of calculating the civil money penalty.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On March 11, 2011, the FEC found that there is reason to believe ("RTB") that Western Energy Alliance PAC and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) by failing to file timely this report on or before October 21, 2010. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$550. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$550 is due within forty (40) days of the finding, or by April 20, 2011, and is based on these factors:

Election Sensitivity of Report: Election Sensitive

Level of Activity: \$3,346

Number of Days Late: Not Filed (reports not filed prior to four (4) days before the General Election held on November 2, 2010 are considered not filed for the purpose of calculating the civil money penalty)

Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or April 20, 2011. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Western Energy Alliance PAC and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection

Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.51(a)(2).


3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Sari Pickerall in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,


Cynthia L. Bauerly
Chair

ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$550 for the 2010 Pre-General Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

The remittance and your payment are due by April 20, 2011. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Western Energy Alliance PAC

FEC ID#: C00426569

AF#: 2342

PAYMENT DUE DATE: April 20, 2011

PAYMENT AMOUNT DUE: \$550

11002661211

FEC OFFICE OF
ADMIN REVIEW

201 APR 26 A 11:31

WESTERN ENERGY
ALLIANCE
Formerly IFAMS

C00426569
AF#: 2342

April 19, 2011

Federal Election Commission
Office of Administrative Review
999 E Street, NW
Washington, D.C. 20463

Re: **Challenge of Reason to Believe Finding of March 11, 2011**

Dear Sir or Madam:

Western Energy Alliance PAC and I, in my official capacity as Treasurer, wish to respectfully challenge the March 11, 2011 FEC finding that Western Energy Alliance PAC violated 2 U.S.C. § 434(a) by failing to file a timely report under the provision of 11 C.F.R. § 111.35 (b)(3)(i).

We had been receiving email notifications for reporting deadlines, but did not receive one for the 12 Day Pre-General Report of Receipts and Disbursements. After filing the third quarter report, we realized there was a reporting requirement after the general election, and called FEC for further clarification on the covered period, which we were told would be October 1st through November 22nd. We were also told that there was a glitch in the notification system, and many filers had not received notices for reports, but were not informed of our mistake with regard to the Pre-General Report. We timely filed the post-election report. No mention was made by our account representative about the pre-general report, so we thought we were up to date.

While we missed this report, we have fully reported all information about collections and disbursements covering the period of the report. Given the small size of our PAC and the fact that we reported fully the information for the time period covered, we request relief from the fine. We have improved our internal notifications procedures and are no longer relying on FEC electronic notifications. We ask FEC to reconsider this fine given it is a first violation and an honest mistake, with no intent to mislead or circumvent the spirit of the law. Thank you for your consideration.

Sincerely,



Kathleen M. Sgamma
Western Energy Alliance PAC Treasurer

11092661212



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via First Class Mail

April 28, 2011

Kathleen M. Sgamma, in her official capacity as Treasurer
Western Energy Alliance PAC
410 17th Street, Suite 700
Denver, CO 80202

C00426569
AF#: 2342

Dear Ms. Sgamma:

On April 26, 2011, the Commission's Office of Administrative Review ("OAR") received your written response ("challenge") which is being reviewed by OAR. If you have any questions regarding your challenge, please contact this Office on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

Sincerely,

A handwritten signature in black ink, appearing to read "Dayna C. Brown".

Dayna C. Brown
Reviewing Officer
Office of Administrative Review

11092661213

**FEC OFFICE OF
ADMIN REVIEW**

2011 APR 28 A 8 09

Date: April 26, 2011

**REFERRAL TO OFFICE OF ADMINISTRATIVE REVIEW
CHALLENGE RECEIVED**

AF#: 2342

Committee Name: Western Energy Alliance PAC

Committee ID#: C00426569

Committee Address (if different than in RTB letter): N

Treasurer Name (if different than in RTB finding): N

Attachments:

**Copy of RTB Circulation Report, dated March 10, 2011 and RTB Certification,
dated March 14, 2011 (Y/N): N**

Attachment #: N/A

Proof of Delivery (to be forwarded at later date if not yet received) (Y/N): Y

Attachment #: 1

Telecoms and Vintcoms in Response to RTB Letter (Y/N): Y

Attachment #: 2

Other Relevant Telecoms (Y/N): N

Attachment #: N/A

Original Correspondence Received by RAD in Response to RTB Letter (Y/N): N

Attachment #: N/A

RAD Staff Declaration (Y/N): Y

-2010 12 Day Pre-General Report Prior Notice, dated September 27, 2010.

-RTB Letter, dated March 14, 2011.

Attachment #: 3

Other RAD Information: (Y/N): N

Attachment#: N/A

11092661214

**Delivery Notification**

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number: 1Z WF5 860 A2 9924 661 3
Reference Number(s): RAD
Service: NEXT DAY AIR
Special Instructions: ADULT SIGNATURE REQUIRED
Shipped/Billed On: 03/09/2011
Delivered On: 03/15/2011 10:22 A.M.
Delivered To: WESTERN
410 17TH ST
7 700
DENVER, CO, US 80202

Signed By: WOLLERT
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Location: RECEPTION

Thank you for giving us this opportunity to serve you.

Sincerely,
UPS

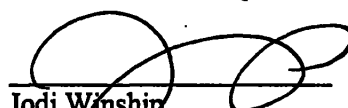
Tracking results provided by UPS: 03/16/2011 3:14 P.M. ET

Attachment 1

11092661215

DECLARATION OF JODI WINSHIP

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Western Energy Alliance PAC:
 - A) Prior Notice, dated September 27, 2010, referencing the 2010 12 Day Pre-General Report (sent via electronic mail to: JBARGAS@IPAMS.ORG);
 - B) Reason-to-Believe Letter, dated March 14, 2011, referencing the 2010 12 Day Pre-General Report.
3. I hereby certify that I have searched the Commission's public records and find that Western Energy Alliance PAC disclosed 2010 12 Day Pre-General activity on the 2010 30 Day Post-General Report, which was filed with the Commission on December 3, 2010.
4. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 26th day of April, 2011.


Jodi Winship
Chief, Compliance Branch
Reports Analysis Division
Federal Election Commission



GENERAL ELECTION

REPORT NOTICE

FEDERAL ELECTION COMMISSION

PARTIES AND PACs

September 27, 2010

CURRENT REPORT DUE

I. QUARTERLY FILERS THAT MAKE GENERAL ELECTION CONTRIBUTIONS OR EXPENDITURES FROM OCTOBER 1 THROUGH OCTOBER 13

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Pre-General ²	10/01/10 - 10/13/10	10/18/10	10/21/10
Post-General	10/14/10 - 11/22/10	12/02/10	12/02/10

II. QUARTERLY FILERS THAT DO NOT MAKE GENERAL ELECTION CONTRIBUTIONS OR EXPENDITURES FROM OCTOBER 1 THROUGH OCTOBER 13²

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Post-General	10/01/10 - 11/22/10	12/02/10	12/02/10

REPORTING SCHEDULE FOR REMAINDER OF 2010

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Year-End	11/23/10 - 12/31/10	01/31/11	01/31/11

Supplemental Filing Information is available for Parties and PACs.

¹A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

²Required only if committee makes contributions or expenditures in connection with the general election during the reporting period.

³Committees that made general election contributions or expenditures before October 1 and did not previously disclose them must also follow Chart I.

2010 SUPPLEMENTAL FILING INFORMATION PACs AND PARTY COMMITTEES

PLEASE NOTE: The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Act and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline.

WHO MUST FILE

Party Committees and PACs (Nonconnected Committees and Separate Segregated Funds) must follow the above charts in order to determine whether they must file a report 12 days before the general election on November 2 (the Pre-General Election Report). All Party Committees and PACs regardless of financial activity, must file a report 30 days after the general election (the Post-General Election Report). See 11 CFR 104.5(c). Before a committee can stop filing with the FEC, it must file a termination report with the Commission. See 11 CFR 102.3. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

METHODS OF FILING REPORTS

Electronic Filing

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the filing deadline. See 11 CFR 104.5(e).

- Web Page: Electronic Filing Page
- Campaign Guide: Nonconnected Committees (Nonconnected), pp. 51-53 [PDF]; Corporations and Labor Organizations (SSF), pp. 49-51 [PDF]; Political Party Committees (Party), pp. 69-71 [PDF].

Paper Filing – Meeting the Filing Deadline

Paper report filing options – Registered, Certified or Overnight or First Class Mail.

See 11 CFR 104.5(e).

- Web Page: Link to Paper Forms (for downloading and printing)
- Campaign Guide: Nonconnected, pp. 47-48 [PDF]; SSF, pp. 45-46 [PDF]; Party, p. 65 [PDF].

PRE-ELECTION REPORTING

Quarterly filing committees that make contributions or expenditures (including independent expenditures) in connection with an election must also file a Pre-Election Report, if the activity was not previously reported. See 11 CFR 104.5(c)(1)(ii).

- Web Page: 2010 Congressional Pre-Primary Reporting Dates Page
- The Record: January 2010 issue [PDF]
- Campaign Guide: Nonconnected, pp. 49-51 [PDF]; SSF, pp. 46-48 [PDF]; Party, pp. 67-68 [PDF].

COMPLIANCE

Treasurer Responsibility

Committee treasurers are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time. See 11 CFR 104.14(d).

- Statement of Policy Regarding Treasurers Subject to Enforcement Proceeding [PDF]
- Campaign Guide: Nonconnected, pp. 3-4 [PDF]; SSF, pp. 1-2 [PDF]; Party, pp. 6-7 [PDF].

Administrative Fine Program

Failure to file reports on time may be subject to civil money penalties up to \$17,600 (or more for repeat late- or non-filers). See 11 CFR 111.30.

- Web Page: Administrative Fine Program Page
- Campaign Guide: Nonconnected, pp. 48-49 [PDF]; SSF, p. 46 [PDF]; Party, p. 66 [PDF].

DISCLOSURE OF LOBBYIST BUNDLING ACTIVITY

Party committees and Leadership PACs must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of \$16,000 during the covered period (see page 1 of this notice).

See 11 CFR 104.22 and 110.17(e).

- The Record: March 2009 issue [PDF]
- Campaign Guide: Party, pp. 143-149 [PDF]

2010 REPORTING SCHEDULE

- Web Page: 2010 Reporting Dates Page
- The Record: January 2010 issue [PDF]
- Campaign Guide: Nonconnected, pp. 49-51 [PDF]; SSF, pp. 46-48 [PDF]; Party, pp. 67-68 [PDF].

48- AND 24-HOUR REPORTS OF INDEPENDENT EXPENDITURES

Any PAC or Party Committee that makes independent expenditures in 2010 may have to disclose this activity within 48- or 24-hours based upon the date and amount of the expenditure. See 11 CFR 104.4.

- Web Page: 48- and 24-hour periods for independent expenditures for 2010 elections
- Campaign Guide: Nonconnected, pp. 72-74 [PDF]; SSF, pp. 65-67 [PDF]; Party, pp. 87-89 [PDF].

These reports are not required when a PAC or Party Committee makes a contribution directly to a candidate.

CHANGE IN FILING FREQUENCY

Committees able to change their reporting schedule (for example, from monthly to quarterly) who wish to do so must notify the Commission in writing and may change their filing frequency no more than once per calendar year. See 11 CFR 104.5(c).

- Web Page: Filing Frequency by Type of Committee
- Campaign Guide: Nonconnected, p. 51 [PDF]; SSF, p. 49 [PDF]; Party, p. 67 [PDF].

FOR INFORMATION, CALL: (800) 424-9530 or (202) 694-1100



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CONFIDENTIAL
SENSITIVE

June 24, 2011

MEMORANDUM

To: The Commission

Through: Alec Paimer *AP*
Acting Staff Director

From: Patricia Carmona *PC*
Chief Compliance Officer

Dayna C. Brown *DCB*
Reviewing Officer
Office of Administrative Review

Subject: Reviewing Officer Recommendation in AF# 2342 – Western Energy
Alliance PAC and Kathleen M. Sgamma, in her official capacity as
Treasurer (C00426569)

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation.

After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Attachment

11092661220



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 24, 2011

**REVIEWING OFFICER RECOMMENDATION
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 2342 – Western Energy Alliance PAC and Kathleen M. Sgamma, in her official capacity
as Treasurer (C00426569)

Summary of Recommendation

Make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a \$550 civil money penalty.

Reason-to-Believe Background

On March 11, 2011, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2010 12 Day Pre-General Report and made a preliminary determination that the civil money penalty was \$550 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") on March 14, 2011 to notify them of the Commission's RTB finding and civil money penalty.

Legal Requirements

The Federal Election Campaign Act ("Act") states that the treasurer of a political committee shall file a pre-election report no later than the 12th day before any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election. 2 U.S.C. § 434(a)(4)(A)(ii) and 11 C.F.R. § 104.5(c)(1)(ii). Reports filed electronically must be received and validated by the Commission at or before 11:59 p.m., Eastern Standard/Daylight Time on the prescribed filing date to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

Respondents' Challenge

On April 26, 2011, the Commission received the written response ("challenge") from the Treasurer challenging the RTB finding. The challenge states that unlike prior reporting deadlines, they did not receive an email regarding the 12 Day Pre-General Report and were told the coverage dates for the post general election report were October 1 through November 22, which they filed timely. The Treasurer states though they missed the 12 Day Pre-General Report, the information for the period was fully disclosed and their account representative did not mention the report. They ask the Commission to reconsider the fine given that it is a first violation and an honest mistake.

Analysis

On December 3, the day after the 30 Day Post-General Report was due, the Commission's Electronic Filing Office ("EFO") sent a non-filer email notification to

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"scornwell@westernenergyalliance.org," alerting the respondents that they did not file the Post General Report. RAD telecoms (written records of telephone conversations) indicate that after receiving the email, a Committee representative called RAD regarding the coverage dates for the Post-General Report. The 12 Day Pre-General Report was required of the Committee if they made contributions or expenditures in connection with the general election from October 1 through October 13. If the Committee had such activity, their 12 Day Pre-General Report with these coverage dates would be due on October 21, and their 30 Day Post-General Report covering October 14 through November 22 would be due on December 2. If the Committee did not have pre-general activity, they would not be required to file the 12 Day Pre-General Report and their 30 Day Post-General Report would instead cover the period from October 1 through November 22. When the respondents called on December 3 requesting the coverage dates of the 30 Day Post-General Report, the due date for the 12 Day Pre-General Report had passed almost two months ago and the respondents did not file that report, therefore the Reports Analyst provided them with the latter coverage dates of October 1 through November 22. It was not until the respondents filed the 30 Day Post-General Report that the Commission was made aware of the pre-general activity that should have been disclosed the 12 Day Pre-General Report by the October 21 filing deadline.

The respondents do not deny that they failed to file the 12 Day Pre-General Report; rather, they contend that the activity for that period was disclosed on their 30 Day Post-General Report which they filed timely. According to the Commission's records, their 30 Day Post-General Report covering the period from October 1 through November 22, was filed on December 3, 2010. Their 30 Day Post-General Report was comprised of the October 1 through October 13 coverage dates of the 12 Day Pre-General Report which included \$3,346 in contributions and expenditures in connection with the general election and triggered the respondents' requirement to file the Pre-Election Report by its October 21 deadline. While the Treasurer is correct that she did disclose the activity for the period in question, albeit on the incorrect report, she did so on their December 3 Post General Report, 43 days after the activity was required to be disclosed on the 12 Day Pre-General Report.

With respect to the challenge's assertions that they did not receive an email notification regarding the deadline for the 12 Day Pre-General Report and were told there was a glitch in the Commission's notification system, there is no record of this in the RAD telecoms and the Information Technology Manager confirms that there are no phone logs related to the 12 Day Pre-General Report, noting specifically that the EFQ has not spoken with the Committee since July 2010.

Commission records indicate that on September 27, 2010 the Commission sent the General Election Report Notice referencing both the 2010 12 Day Pre-General and 30 Day Post-General Reports to "JBARGAS@IPAMS.ORG," the email address listed on their Statement of Organization. The second footnote on Page 1 of the notice states that the 12 Day Pre-General Report is required only if the committee makes contributions or expenditures in connection with the general election during the reporting period. According to RAD's supplemental response, the Party/Non-Party Branch Chief states the respondents were also sent the Report Notice for the 2010 October Quarterly Report, which also outlined the 12 Day Pre-General reporting requirements.

The Commission's reminder Report Notices are sent as a courtesy to committees and their treasurers. It is the Treasurer's responsibility to ensure that reports are filed on time. 11 C.F.R. § 104.14(d).

Negligence and the failure to know filing dates are included at 11 C.F.R. § 111.35(d) as examples of circumstances that are not considered reasonably unforeseen and beyond the respondents' control. The other issues raised in the challenge (the size of the Committee, this being their first violation, their lack of intent to circumvent the spirit of the law, and the improvement of their internal notification procedures), also do not fall within the list of defenses enumerated at 11 C.F.R. § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. The Reviewing Officer, therefore, recommends that the Commission make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$550.

OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 2342 involving the Western Energy Alliance PAC and Kathleen M. Sgamma, in her official capacity as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 2342 that the Western Energy Alliance PAC and Kathleen M. Sgamma, in her official capacity as Treasurer, violated 2 U.S.C. § 434(a), assess a civil money penalty of \$550; and
- (3) Send the appropriate letter.

Reviewing Officer: Dayna C. Brown

Attachments

- Attachment 1 – Challenge Received from Respondents
- Attachment 2 – Supplemental Request sent to and Response received from ITD
- Attachment 3 – Supplemental Request Sent to and Response Received from RAD
- Attachment 4 – Declaration from RAD and Telecom Provided with Declaration
- Attachment 5 – Declaration from OAR

FEC OFFICE OF
ADMIN REVIEW

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WESTERN ENERGY
ALLIANCE
FORMERLY WEA

C00426569
AF#: 2342

April 19, 2011

Federal Election Commission
Office of Administrative Review
999 E Street, NW
Washington, D.C. 20463

Re: Challenge of Reason to Believe Finding of March 11, 2011

Dear Sir or Madam:

Western Energy Alliance PAC and I, in my official capacity as Treasurer, wish to respectfully challenge the March 11, 2011 FEC finding that Western Energy Alliance PAC violated 2 U.S.C. § 434(a) by failing to file a timely report under the provision of 11 C.F.R. § 111.35 (b)(3)(i).

We had been receiving email notifications for reporting deadlines, but did not receive one for the 12 Day Pre-General Report of Receipts and Disbursements. After filing the third quarter report, we realized there was a reporting requirement after the general election, and called FEC for further clarification on the covered period, which we were told would be October 1st through November 22nd. We were also told that there was a glitch in the notification system, and many filers had not received notices for reports, but were not informed of our mistake with regard to the Pre-General Report. We timely filed the post-election report. No mention was made by our account representative about the pre-general report, so we thought we were up to date.

While we missed this report, we have fully reported all information about collections and disbursements covering the period of the report. Given the small size of our PAC and the fact that we reported fully the information for the time period covered, we request relief from the fine. We have improved our internal notifications procedures and are no longer relying on FEC electronic notifications. We ask FEC to reconsider this fine given it is a first violation and an honest mistake, with no intent to mislead or circumvent the spirit of the law. Thank you for your consideration.

Sincerely,

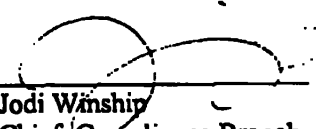


Kathleen M. Sgamma
Western Energy Alliance PAC Treasurer

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DECLARATION OF JODI WINSHIP

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Western Energy Alliance PAC:
 - A) Prior Notice, dated September 27, 2010, referencing the 2010 12 Day Pre-General Report (sent via electronic mail to: JBARGAS@IPAMS.ORG);
 - B) Reason-to-Believe Letter, dated March 14, 2011, referencing the 2010 12 Day Pre-General Report.
3. I hereby certify that I have searched the Commission's public records and find that Western Energy Alliance PAC disclosed 2010 12 Day Pre-General activity on the 2010 30 Day Post-General Report, which was filed with the Commission on December 3, 2010.
4. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 26th day of April, 2011.



Jodi Winship
Chief, Compliance Branch
Reports Analysis Division
Federal Election Commission

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GENERAL ELECTION

REPORT NOTICE

FEDERAL ELECTION COMMISSION

PARTIES AND PACs

September 27, 2010

CURRENT REPORT DUE

I. QUARTERLY FILERS THAT MAKE GENERAL ELECTION CONTRIBUTIONS OR EXPENDITURES FROM OCTOBER 1 THROUGH OCTOBER 13

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Pre-General	10/01/10 - 10/13/10	10/18/10	10/21/10
Post-General	10/14/10 - 11/22/10	12/02/10	12/02/10

II. QUARTERLY FILERS THAT DO NOT MAKE GENERAL ELECTION CONTRIBUTIONS OR EXPENDITURES FROM OCTOBER 1 THROUGH OCTOBER 13²

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Post-General	10/01/10 - 11/22/10	12/02/10	12/02/10

REPORTING SCHEDULE FOR REMAINDER OF 2010

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Year-End	11/23/10 - 12/31/10	01/31/11	01/31/11

Parties and PACs

¹A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

²Required only if committee makes contributions or expenditures in connection with the general election during the reporting period.

³Committees that made general election contributions or expenditures before October 1 and did not previously disclose them must also follow Chart I.

2010 SUPPLEMENTAL FILING INFORMATION PACs AND PARTY COMMITTEES

PLEASE NOTE: The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Act and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline.

WHO MUST FILE

Party Committees and PACs (Nonconnected Committees and Separate Segregated Funds) must follow the above charts in order to determine whether they must file a report 12 days before the general election on November 2 (the Pre-General Election Report). All Party Committees and PACs regardless of financial activity, must file a report 30 days after the general election (the Post-General Election Report). See 11 CFR 104.5(e). Before a committee can stop filing with the FEC, it must file a termination report with the Commission. See 11 CFR 102.3. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

METHODS OF FILING REPORTS

Electronic Filing

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the filing deadline. See 11 CFR 104.5(e).

- Web Page: Electronic Filing Page
- Campaign Guide: Nonconnected Committees (Nonconnected), pp. 51-53 [PDF]; Corporations and Labor Organizations (SSF), pp. 49-51 [PDF]; Political Party Committees (Party), pp. 69-71 [PDF].

Paper Filing – Meeting the Filing Deadline

Paper report filing options – Registered, Certified or Overnight or First Class Mail.

See 11 CFR 104.5(e).

- Web Page: Link to Paper Forms (for downloading and printing)
- Campaign Guide: Nonconnected, pp. 47-48 [PDF]; SSF, pp. 45-46 [PDF]; Party, p. 65 [PDF].

PRE-ELECTION REPORTING

Quarterly filing committees that make contributions or expenditures (including independent expenditures) in connection with an election must also file a Pre-Election Report, if the activity was not previously reported. See 11 CFR 104.5(c)(1)(ii).

- Web Page: 2010 Congressional Pre-Primary Reporting Dates Page
- The Record: January 2010 issue [PDF]
- Campaign Guide: Nonconnected, pp. 49-51 [PDF]; SSF, pp. 45-46 [PDF]; Party, pp. 67-68 [PDF].

COMPLIANCE

Treasurer Responsibility

Committee treasurers are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time. See 11 CFR 104.14(d).

- Statement of Policy Regarding Treasurers Subject to Enforcement Proceeding [PDF]
- Campaign Guide: Nonconnected, pp. 3-4 [PDF]; SSF, pp. 1-2 [PDF]; Party, pp. 6-7 [PDF].

Administrative Fine Program

Failure to file reports on time may be subject to civil money penalties up to \$17,600 (or more for repeat late- or non-filers). See 11 CFR 111.30.

- Web Page: Administrative Fine Program Page
- Campaign Guide: Nonconnected, pp. 48-49 [PDF]; SSF, p. 46 [PDF]; Party, p. 66 [PDF].

DISCLOSURE OF LOBBYIST BUNDLING ACTIVITY

Party committees and Leadership PACs must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of \$16,000 during the covered period (see page 1 of this notice).

See 11 CFR 104.22 and 110.17(e).

- The Record: March 2009 issue [PDF]
- Campaign Guide: Party, pp. 143-149 [PDF]

2010 REPORTING SCHEDULE

- Web Page: 2010 Reporting Dates Page
- The Record: January 2010 issue [PDF]
- Campaign Guide: Nonconnected, pp. 49-51 [PDF]; SSF, pp. 46-48 [PDF]; Party, pp. 67-68 [PDF].

48- AND 24-HOUR REPORTS OF INDEPENDENT EXPENDITURES

Any PAC or Party Committee that makes independent expenditures in 2010 may have to disclose this activity within 48- or 24-hours based upon the date and amount of the expenditure. See 11 CFR 104.4.

- Web Page: 48- and 24-hour periods for independent expenditures for 2010 elections
- Campaign Guide: Nonconnected, pp. 72-74 [PDF]; SSF, pp. 65-67 [PDF]; Party, pp. 87-89 [PDF].

These reports are not required when a PAC or Party Committee makes a contribution directly to a candidate.

CHANGE IN FILING FREQUENCY

Committees able to change their reporting schedule (for example, from monthly to quarterly) who wish to do so must notify the Commission in writing and may change their filing frequency no more than once per calendar year. See 11 CFR 104.5(c).

- Web Page: Filing Frequency by Type of Committee
- Campaign Guide: Nonconnected, p. 51 [PDF]; SSF, p. 49 [PDF]; Party, p. 67 [PDF].

FOR INFORMATION, CALL: (800) 424-9530 or (202) 694-1100



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 14, 2011

Kathleen M. Sgamma, in official capacity as Treasurer
Western Energy Alliance PAC
410 17th Street, Suite 700
Denver, CO 80202

C00426569
AF#: 2342

Dear Ms. Sgamma:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 12 Day Pre-General Report of Receipts and Disbursements in a calendar year during which there is a regularly scheduled election. This report is required if your committee makes a contribution to or expenditure on behalf of a candidate in the general election. This report, covering the period through October 13, 2010, shall be filed no later than October 21, 2010. 2 U.S.C. § 434(a). Because records at the Federal Election Commission ("FEC") indicate that this report was not filed prior to four (4) days before the General Election held on November 2, 2010, it is considered not filed for the purpose of calculating the civil money penalty.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On March 11, 2011, the FEC found that there is reason to believe ("RTB") that Western Energy Alliance PAC and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) by failing to file timely this report on or before October 21, 2010. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$550. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$550 is due within forty (40) days of the finding, or by April 20, 2011, and is based on these factors:

Election Sensitivity of Report: Election Sensitive

Level of Activity: \$3,346

Number of Days Late: Not Filed (reports not filed prior to four (4) days before the General Election held on November 2, 2010 are considered not filed for the purpose of calculating the civil money penalty)

Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

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1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or April 20, 2011. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Western Energy Alliance PAC and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection

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Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.51(a)(2).


3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Sari Pickerall in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,


Cynthia L. Bauerly
Chair

11092661231

ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$550 for the 2010 Pre-General Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

The remittance and your payment are due by April 20, 2011. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Western Energy Alliance PAC

FEC ID#: C00426569

AF#: 2342

PAYMENT DUE DATE: April 20, 2011

PAYMENT AMOUNT DUE: \$550

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DECLARATION OF DAYNA C. BROWN

1. I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
2. The 2010 12 Day Pre-General Report is due October 21, 2010. If electronically filed, it must be received and validated by the Commission at or before 11:59 p.m., Eastern Standard/Daylight Time on October 21 to be timely filed.
3. It is the practice of the Reports Analysis Division to document all calls to or from committees regarding a letter they receive or any questions relating to administrative fine regulations, including due dates of reports and filing requirements.
4. It is the practice of the Commission's Information Division to send prior notification of a report's due date to committees and treasurers at their email address of record approximately 3 weeks before the due date.
5. I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of:
 - (a) Page 1 of the Statement of Organization electronically filed by the Western Energy Alliance PAC and Kathleen M. Sgamma, in her official capacity as Treasurer. According to the Commission's records, the document was received August 18, 2010, and lists "jbargas@ipams.org" as the Committee's email address;
 - (b) Page 1 of the Summary Page and 2 Pages of Schedule B for the 2010 30 Day Post-General Report electronically filed by the Western Energy Alliance PAC and Kathleen M. Sgamma, in her official capacity as Treasurer. According to the Commission's records, the report covers the period from October 1 through November 22, 2010, and was received on December 3, 2010. Schedule B (Itemized Disbursements) lists the following:
 - i. one \$346.19 expenditure made October 13, 2010 on behalf of Candidate MIKE LEE. The disbursement box for "General" is checked;
 - ii. one \$1,500 contribution made October 13, 2010 to FRIENDS OF MIKE LEE INC. The disbursement box for "General" is checked; and
 - iii. one \$1,500 contribution made October 6 to MULLINS FOR CONGRESS. The disbursement box for "General" is checked.
6. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington on the 24th of June, 2011.



Dayna C. Brown
Reviewing Officer
Office of Administrative Review
Federal Election Commission

11092661233

**FEC
FORM 1****STATEMENT OF
ORGANIZATION**

(See instructions)

Office use only

1. NAME OF COMMITTEE (in full) (Check if name is changed) Example: If typing, type over the lines 12FE4M5

Western Energy Alliance PAC

ADDRESS (number and street)

410 17th Street Suite 700

(Check if address is changed)

Denver

CO

80202

CITY ▲

STATE ▲

ZIP CODE ▲

COMMITTEE'S E-MAIL ADDRESS (Please provide only one e-mail address)

(Check if address is changed)

lbargas@lpams.org

COMMITTEE'S WEB PAGE ADDRESS (URL)

(Check if address is changed)

lpams.org

2. DATE M M D D Y Y Y Y
07 31 2009

3. FEC IDENTIFICATION NUMBER C C00426569

4. IS THIS STATEMENT NEW (N) OR X AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete

Type or Print Name of Treasurer Kathleen M Sgamma

Signature of Treasurer Electronically Filed by Kathleen M Sgamma

Date M M D D Y Y Y Y
08 18 2010

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS

Office
Use
Only

For further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-694-1100

FEC FORM 1
(Revised 02/2009)

11092661234

**FEC
FORM 3X****REPORT OF RECEIPTS
AND DISBURSEMENTS**
For Other Than An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) **USE FEC MAILING LABEL OR TYPE OR PRINT** Example: If typing, type over the lines

Western Energy Alliance PAC

ADDRESS (number and street)

410 17th Street Suite 700

Check if different
than previously
reported. (ACC)

Denver

CO

80202

2. FEC IDENTIFICATION NUMBER

CITY

STATE

ZIP CODE

C00426569

3. IS THIS
REPORT

X

NEW
(N)

OR

AMENDED
(A)4. TYPE OF REPORT
(Choose One)(b) Monthly
Report
Due On:

Feb 20 (M2)

May 20 (M5)

Aug 20 (M8)

Nov 20 (M11)
(Non-Election
Year Only)

(a) Quarterly Reports:

Mar 20 (M3)

Jun 20 (M6)

Sep 20 (M9)

Dec 20 (M12)
(Non-Election
Year Only)

Apr 20 (M4)

Jul 20 (M7)

Oct 20 (M10)

Jan 31 (YE)

April 15
Quarterly Report(Q1)July 15
Quarterly Report(Q2)October 15
Quarterly Report(Q3)January 31
Quarterly Report(YE)July 31 Mid-Year
Report(Non-election
Year Only) (MY)Termination Report
(TER)(c) 12-Day
PRE-Election
Report for the:

Primary (12P)

General (12G)

Runoff (12R)

Convention (12C)

Special (12S)

Election on

in the
State of(d) 30-Day
Post -Election
Report for the:

General (30G)

Runoff (30R)

Special (30S)

Election on

11

02

2010

in the
State of

5. Covering Period 10 01 2010 through 11 22 2010

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Kathleen M Sgamma

Signature of Treasurer Electronically Filed by Kathleen M Sgamma

Date 12 03 2010

NOTE : Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C 437g.

Office
Use
Only**FEC FORM 3X**
(Rev. 12/2004)

FE6AN026

11092661235

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

 Use separate schedule(s)
 for each category of the
 Detailed Summary Page

 FOR LINE NUMBER:
 (check only one)

PAGE 6 / 7

<input checked="" type="checkbox"/>	21b	<input type="checkbox"/>	22	<input type="checkbox"/>	23	<input type="checkbox"/>	24	<input type="checkbox"/>	25	<input type="checkbox"/>	26
<input type="checkbox"/>	27	<input type="checkbox"/>	28a	<input type="checkbox"/>	28b	<input type="checkbox"/>	28c	<input type="checkbox"/>	29	<input type="checkbox"/>	30b

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee

 NAME OF COMMITTEE (In Full)
 Western Energy Alliance PAC

A.

 Full Name (Last, First, Middle Initial)
 Western Energy Alliance PAC

 Transaction ID: SB21B.4651
 Date of Disbursement

Mailing Address 410 17th Street Suite 700

 M O D Y
 1 0 1 3 2 0 1 0

City	State	Zip Code	Amount of Each Disbursement this Period
Denver	CO	80202	346.19
Purpose of Disbursement			
Fundraising expense			
Candidate Name			
MIKE LEE			
Office Sought:	House	Disbursement For:	2010
	X Senate	Primary	X General
	President	Other (specify) ▼	
State: UT	District: 00		

SUBTOTAL of Disbursements This Page (optional)

346.19

TOTAL This Period (last page this line number only)

346.19

11092661236

**SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS**Use separate schedule(s)
for each category of the
Detailed Summary PageFOR LINE NUMBER:
(check only one)

PAGE 7/7

<input type="checkbox"/> 21b	<input type="checkbox"/> 22	<input checked="" type="checkbox"/> 23	<input type="checkbox"/> 24	<input type="checkbox"/> 25	<input type="checkbox"/> 26
<input type="checkbox"/> 27	<input type="checkbox"/> 28a	<input type="checkbox"/> 28b	<input type="checkbox"/> 28c	<input type="checkbox"/> 29	<input type="checkbox"/> 30b

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee

NAME OF COMMITTEE (In Full)
Western Energy Alliance PAC

A.

Full Name (Last, First, Middle Initial)
FRIENDS OF MIKE LEE INCTransaction ID: SB23.4650
Date of Disbursement

Mailing Address 190 WEST 800 NORTH STE 100

M M D D Y Y Y
1 0 1 3 2 0 1 0City State Zip Code
PROVO UT 84601

Amount of Each Disbursement this Period

Purpose of Disbursement

1500.00

Candidate Name

Category/
Type

Office Sought:

House
☒ Senate
President

Disbursement For:

2010

Primary ☒ General
Other (specify) ▼

State: UT District: 00

B.

Full Name (Last, First, Middle Initial)
MULLINS FOR CONGRESSTransaction ID: SB23.4648
Date of Disbursement

Mailing Address PO BOX 256

M M D D Y Y Y
1 0 0 6 2 0 1 0City State Zip Code
FARMINGTON NM 87499

Amount of Each Disbursement this Period

Purpose of Disbursement

1500.00

Candidate Name
THOMAS E MULLINSCategory/
Type

Office Sought:

☒ House
Senate
President

Disbursement For:

2010

Primary ☒ General
Other (specify) ▼

State: NM District: 03

SUBTOTAL of Disbursements This Page (optional) ▶

3000.00

TOTAL This Period (last page this line number only) ▶

3000.00



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

June 27, 2011

Kathleen M. Sgamma, in her official capacity as Treasurer
Western Energy Alliance PAC
410 17th Street, Suite 700
Denver, CO 80202

C00426569
AF# 2342

Dear Ms. Sgamma:

On March 11, 2011, the Federal Election Commission ("Commission") found reason to believe ("RTB") that the Western Energy Alliance PAC and you, in your official capacity as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2010 12 Day Pre-General Report. The Commission also made a preliminary determination that the civil money penalty was \$550 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination in this matter. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463. As a result of the anthrax threat in the Washington, DC area, US Postal Service mail delivery to federal agencies, including the Commission, has been interrupted. Until regular mail delivery resumes, you may also file your written response with the Commission Secretary via facsimile (202-208-3333) or by courier at the same address (if you use an overnight delivery service, please use zip code 20004 instead of zip code 20463). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

Dayna C. Brown
Reviewing Officer
Office of Administrative Review

Attachment

11092661238



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2011 JUL 19 A 8:46

July 18, 2011

MEMORANDUM

SENSITIVE

To: The Commission

Through: Alec Palmer *AP*
Acting Staff Director

From: Patricia Carmona *PC*
Chief Compliance Officer

Dayna C. Brown *DCB*
Reviewing Officer
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 2342 – Western Energy Alliance PAC and Kathleen M. Sgamma, in her official capacity as Treasurer (C00426569)

On March 11, 2011, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2010 12 Day Pre-General Report and also made a preliminary determination that the civil money penalty was \$550 based on the schedule of penalties at 11 C.F.R. § 111.43.

On April 26, 2011, the Commission received their written response ("challenge") from the Treasurer. After reviewing the challenge, the Reviewing Officer's recommendation dated June 24, 2011 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that they violated 2 U.S.C. § 434(a) and assess a \$550 civil money penalty because they submitted no evidence that a factual error was made in the RTB finding, that the penalty was miscalculated at RTB or that they used best efforts to file on time. 11 C.F.R. § 111.35(b).

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). As of this date, a written response has not been received.

On July 11, 2011, the Commission received the respondents' \$550 payment.

11092661239

OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 2342 involving the Western Energy Alliance PAC and Kathleen M. Sgamma, in her official capacity as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 2342 that the Western Energy Alliance PAC and Kathleen M. Sgamma, in her official capacity as Treasurer, violated 2 U.S.C. § 434(a), assess a civil money penalty of \$550; and
- (3) Send the appropriate letter.

11092661240

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Final Determination Recommendation:) AF 2342
Western Energy Alliance PAC and)
Kathleen M. Sgamma, in her official)
capacity as Treasurer (C00426569))

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on July 28, 2011, the Commission decided by a vote of 4-0 to take the following actions in AF 2342:

1. Adopt the Reviewing Officer recommendation for AF# 2342 involving the Western Energy Alliance PAC and Kathleen M. Sgamma, in her official capacity as Treasurer, in making the final determination.
2. Make a final determination in AF# 2342 that the Western Energy Alliance PAC and Kathleen M. Sgamma, in her official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$550.
3. Send the appropriate letter.

Commissioners Bauerly, McGahn II, Petersen, and Weintraub voted affirmatively for the decision. Commissioners Hunter and Walther did not vote.

Attest:

July 29, 2011
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission

11092661241



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 3, 2011

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kathleen M. Sgamma, in official capacity as Treasurer
Western Energy Alliance PAC
410 17th Street, Suite 700
Denver, CO 80202

C00426569
AF# 2342

Dear Ms. Sgamma:

On March 11, 2011, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that the Western Energy Alliance PAC and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2010 12 Day Pre-General Report. By letter dated March 14, 2011, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$550 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On April 26, 2011, the Office of Administrative Review received your written response, challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that the Western Energy Alliance PAC and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty in the amount of \$550 in accordance with 11 C.F.R. § 111.43. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on June 27, 2011.

On July 11, 2011, the Commission received your \$550 payment.

On July 28, 2011, the Commission adopted the Reviewing Officer's recommendation and made a final determination that the Western Energy Alliance PAC and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assessed a civil money penalty of \$550. It is based on the same factors used to calculate the civil money penalty at RTB. A copy of the final determination recommendation is attached.

11092661242

If You Choose to Appeal the Final Determination and/or Civil Money Penalty

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the district court of the United States for the district in which the committee or treasurer reside, or transact business, requesting that the final determination be modified or set aside. See 2 U.S.C. § 437g(a)(4)(C)(iii). The failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within 30 days from the date of the Commission's notification, this could occur at any time following certification of the Commission's vote.

If you have any questions regarding the payment of the civil money penalty, please contact Dayna Brown on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

On behalf of the Commission,



Cynthia L. Bauerly
Chair

Attachment

11092661244

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 001 \$ 000055000 BA# 1 07-11-11 20 4



us bancorp.

TPAMS POLITICAL ACTION COMMITTEE 410-17TH ST. STE. 700 DENVER, CO 80202-4469		2584
PAY TO THE ORDER OF <i>Federal Election Commission</i>		DATE <i>7/24/11</i>
<i>Five Hundred Fifty 00/100</i>		DOLLARS <i>550.00</i>
KSTBANK 24 HOUR BANKING (800) 274-0000 MEMO		



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2342

DATE SCANNED

8/8/11

SCANNER NO.

2

SCAN OPERATOR

ESS

11092661245